

## **REMARKS**

### **Interview Summary**

The substance of the Interview on August 2, 2004 between Examiner DeBerry, Examiner Kemmerer, Dr. Carney and the undersigned is set forth in the Interview Summary provided to Applicants by Examiner DeBerry after the Interview. The Interview Summary is incorporated herein by reference.

Reference AX3, which was cited in the IDS filed on July 8, 2004, was also discussed during the Interview. It was discussed that this reference, particularly the last sentence of the reference, does not anticipate or render the claimed invention obvious because this teaching is nothing more than an invitation for further experiment. It was also discussed that this reference does not render the claimed invention obvious because it was surprising and unexpected that TP508 alone, in the absence of an osteoconductive scaffold or matrix, would be effective in inducing bone formation at a site in need of bone growth and at which bone growth would not occur at said site if left untreated, such as at non-union fractures, segmental bone gaps and bone voids. Evidence of the surprising and unexpected result that TP508 alone, in the absence of an osteoconductive scaffold or matrix, can induce bone formation at a site in need of bone growth and at which bone growth would not occur at said site if left untreated is provided in the Rule 132 of Declaration of Dr. Darrell Carney filed concurrently herewith.

Applicants note that the Rule 132 Declaration of Dr. Darrell Carney filed concurrently ✓ herewith references U.S. Application No. 09/909,122 which was filed on July 19, 2001. The present application is a continuation-in-part of U.S. Application No. 09/909,122.

### **Specification Amendments**

The specification has also been amended at page 7, line 17, to include a sentence reciting that the Asp-Ala of a thrombin receptor binding domain having the sequence Arg-Gly-Asp-Ala comprise the first two amino acids of the serine esterase conserved sequence. This amendment to the specification is fully supported in the application as filed on July 19, 2001, which incorporates by reference the entire contents of U.S. Patent Nos. 5,352,664 and 5,500,412 (see

page 5, line 5). The added sentence is recited at column 18, lines 3-8 of the '664 patent and at column 16, lines 31-36 of the '412 patent.

#### Claim Amendment

Claim 54 has been amended to delete the redundancy in the claim. No new matter has been added by the claim amendment.

#### Substitute Sequence Listing

Transmitted concurrently herewith is a copy of a Substitute "Sequence Listing" in paper form (sheets 1/3 through 3/3) comprising SEQ ID NOs: 1 through 7 for the above-identified patent application as required by 37 C.F.R. §§ 1.825(a) and 1.821(c), and a copy of the Substitute "Sequence Listing" in computer readable form as required by 37 C.F.R. §§ 1.825(b) and 1.821(e). Please replace the Substitute "Sequence Listing" filed on July 8, 2004 (sheets 1/3 through 3/3) with the attached Substitute "Sequence Listing".

The Substitute "Sequence Listing" filed concurrently herewith correctly recites that seven sequences are disclosed therein.

As required by 37 C.F.R. § 1.825(b), Applicants' Attorney hereby states that the contents of the Substitute "Sequence Listing" in paper form and in the computer readable form submitted herewith are the same and, as required by 37 C.F.R. § 1.825(a), also states that the submission includes no new matter.

#### Terminal Disclaimer

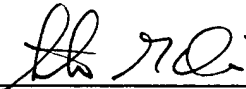
Transmitted concurrently herewith is a Terminal Disclaimer in which the owner of the instant application disclaims, except as provided in the Terminal Disclaimer, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of any patent on the pending second Application Number 09/909,122 filed on July 19, 2001.

**CONCLUSION**

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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